

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL DEANGELIS,
Plaintiff,

v.

T. COBB, *et al.*,

Defendants.

/

Case No.: 21-12722

Sean F. Cox
Chief United States District Judge

Curtis Ivy, Jr.
United States Magistrate Judge

ORDER DENYING PLAINTIFF'S MOTION TO COMPEL (ECF No. 25)

Plaintiff Michael DeAngelis filed this prisoner civil rights case, without the assistance of counsel, on November 16, 2021, against several Michigan Department of Corrections employees. (ECF No. 1). On June 13, 2022, before any of the defendants had appeared, Plaintiff moved to compel the defendants to provide documents in discovery, such as his medical file and inmate file. (ECF No. 25). There is no indication that Plaintiff mailed discovery requests to the defendants and that the defendants did not timely respond.

The motion is denied for two reasons. First, any discovery is premature. In prisoner civil litigation, discovery typically commences upon issuance of a scheduling order setting discovery and dispositive motion deadlines after the defendants file an answer to the complaint. Defendants have yet to file an answer and the Court has not entered a scheduling order. The Court must resolve the pending motion for summary judgment based on exhaustion of administrative

remedies (ECF No. 34) before discovery begins. If Plaintiff defeats summary judgment, the Court will issue a scheduling order after the defendants have answered the complaint. If this occurs, responses to discovery requests will become due in due course.

Second, the motion is denied because Plaintiff did not send discovery requests to the defendants. The attempt to obtain discovery by requesting a Court order first is improper under Eastern District of Michigan Local Rule 26.2 and Fed. R. Civ. P. 5(d)(1).¹ Discovery requests must be made in accordance with Fed. R. Civ. P. 26 through 37 if and when the time for discovery begins. *See* Fed. R. Civ. P. 26-37. That is, discovery requests must be directed to the defendants, not filed with the Court. So Plaintiff's motion is due to be **DENIED** as it is an improper means of submitting discovery to Defendants.

IT IS SO ORDERED.

The parties here may object to and seek review of this Order, but are required to file any objections within 14 days of service as provided for in Federal Rule of Civil Procedure 72(a) and Local Rule 72.1(d). A party may not assign as

¹ While Plaintiff is representing himself, he is still expected to adhere to the rules governing litigation in this court. *West v. Saginaw Twp. Police Dep't.*, 2014 WL 3599495, at *2 (E.D. Mich. July 22, 2014) (a *pro se* plaintiff is "not excused from failing to follow the Federal Rules of Civil Procedure"); *Fields v. Cnty. of Lapeer*, 2000 WL 1720727 (6th Cir. 2000) ("It is incumbent on litigants, even those proceeding *pro se*, to follow . . . rules of procedure."); *Kitchen v. Corizon Health Inc.*, 2018 WL 286425, at *4 (W.D. Mich. Jan. 4, 2018) ("The Federal Rules of Civil Procedure bind even *pro se* individuals.").

error any defect in this Order to which timely objection was not made. Fed. R. Civ. P. 72(a). Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. When an objection is filed to a magistrate judge's ruling on a non-dispositive motion, the ruling remains in effect unless it is stayed by the magistrate judge or a district judge. E.D. Mich. Local Rule 72.2.

Date: July 29, 2022

s/Curtis Ivy, Jr.
Curtis Ivy, Jr.
United States Magistrate Judge

CERTIFICATE OF SERVICE

The undersigned certifies that this document was served on counsel of record and any unrepresented parties via the Court's ECF System or by First Class U.S. mail on July 29, 2022.

s/Kristen MacKay
Case Manager
(810) 341-7850